UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/C.6/51/7
12 November 1996

ORIGINAL: ENGLISH

Fifty-first session
SIXTH COMMITTEE
Agenda item 120

HUMAN RESOURCES MANAGEMENT

Letter dated 12 November 1996 from the Chairman of the Sixth Committee to the President of the General Assembly

I have the honour to attach a communication from the Sixth Committee regarding agenda item 120, Human resources management, which was allocated by the General Assembly to the Fifth Committee on the understanding that the Sixth Committee would examine the legal implications of the proposals of the Secretary-General contained in his reports on the reform of the internal system of justice in the Secretariat (see annex).

(Signed) Ramón ESCOVAR-SALOM
Chairman,
Sixth Committee
of the General Assembly

ANNEX

Communication from the Sixth Committee regarding the legal implications of the reform of the internal system of justice of the Secretariat (agenda item 120)

Reference is made to agenda item 120, Human resources management, which was allocated by the General Assembly to the Fifth Committee on the understanding that the Sixth Committee would examine the legal implications of the proposals of the Secretary-General contained in his reports on the reform of the internal system of justice in the Secretariat.

The Sixth Committee discussed the item at its 7th meeting, on 30 September, and its 9th meeting, on 1 October 1996. At the 7th meeting, the Under-Secretary-General for Administration and Management presented the proposals, mentioning that there was widespread dissatisfaction with the existing system of justice, which had been established many years earlier and was inadequate in current circumstances. The proposals were aimed at achieving a just, transparent, simple, impartial and efficient system. He referred to measures to promote early reconciliation of disputes and to professionalize the consideration of appeals and disciplinary cases. He spoke of the proposals to replace the Joint Appeals Board by an arbitration board and the Joint Disciplinary Committee by a disciplinary board and mentioned that a limited number of administrative measures had already been introduced.

After this presentation, the Under-Secretary-General and the Deputy to the Legal Counsel made themselves available for a question and answer session. Questions were posed by 10 delegations on such matters as the legal basis of the proposals; what other reforms had been considered; whether staff members would have a choice between different procedures in the early stage; the method of appointment of arbitrators and their status; the status of disciplinary board members; the likely effect of centralization of the system with regard to delays in procedures; and what action had been taken to avoid misunderstandings between staff members and their supervisors.

Following the presentation and the question and answer session, the proposals were debated at the 9th meeting of the Committee, on 1 October. There were nine interventions in the debate, including one made during the 7th meeting. One of the interventions was supported by 25 Member States.

All the speakers indicated, whether expressly or by implication, support for reform of the internal system of justice. The objective was described as that of putting in place a system that would be simple, open, efficient and expeditious. Several speakers referred to positive elements in the proposals. Among those mentioned were proposals to avoid problems through, inter alia, improvements in communications and exchanges of information; facilitation of resolution of problems prior to the litigation stage through, for instance, mediation and ombudsman procedures, appointments of an ombudsman coordinator and of a Legal Officer to the Panel of Counsel, improved review procedures, procedures for settlement of small claims, arrangements for specialist training and professionalization of the system.

Many of the critical comments related to the proposals to replace the Joint Appeals Board and the Joint Disciplinary Committee, although there was also support for them. The contention that participation of members elected by the staff to those bodies was a source of inefficiency and delay, because not enough staff members were available for the task and they frequently lacked the necessary capacity or objectivity, was disputed and the validity of that contention as a reason for replacing those bodies was rejected.

With regard to the proposal to replace the Joint Appeals Board by an arbitration board, it was contended that arbitration as a system depended on a background of equality between the parties. This was absent from the relations between the Administration and the staff in that, inter alia, the applicable rules and regulations were already determined; the procedure for choice of arbitrators was not evenly balanced, with consequent concerns about their independence and perceptions as to their impartiality; and the Secretary-General was responsible, under the Charter, for administrative and disciplinary decisions and accountable to the Member States in respect of them.

The proposal for arbitration boards was also criticized for other reasons. Serious doubts were expressed about the recruitment of arbitrators from outside the United Nations because they would lack the benefit of familiarity with the special regime pertaining to United Nations staff. The adequacy of a two section arbitration board to deal with the existing backlog of problems and to keep up to date with the regular flow of problems was raised and cost projections were questioned in that respect. Concern was also expressed as to whether there were adequate arrangements for legal representation of staff members. Delegations also drew attention to the reservations expressed by the Advisory Committee on Administrative and Budgetary Questions with regard to the proposed arbitration board.

The proposal for replacement of the Joint Disciplinary Committee by a disciplinary board drew expressions of doubt about the desirability of the externally recruited arbitrators acting as chairpersons of the board. There was an objection to the proposal that staff members should be selected for the board, rather than elected, as was the case with the Committee.

It was suggested that the role of the Administrative Tribunal should also be considered in the context of the reform.

Some delegations favoured a general deferral of the reform proposals for reflection and further consultation with the staff. One delegation suggested by way of a counterproposal that the consultative processes should be strengthened so that consultation would precede administrative decisions and that the authority of the judgements of the Administrative Tribunal should be enhanced vis-à-vis the Administration by, inter alia, requiring qualifications for election as judges, defining the Tribunal's jurisdiction more clearly and extending the scope of the decisions available to it. There was no discussion on this proposal.

At the end of the debate, the Committee was addressed on the item by Mr. Luís de Posadas Montero, Senior Vice-President of the Administrative Tribunal.